

UNITED STATES DISTRICT COURT
FOR THE DISTRICT MASSACHUSETTS

ALEXANDER GRINIS, MICHAEL
GORDON, and ANGEL SOLIZ, on
behalf of themselves and those similarly
situated,

Petitioners

v.

STEPHEN SPAULDING, Warden of
Federal Medical Center Devens, and
MICHAEL CARVAJAL, Director of the
Federal Bureau of Prisons, in their
official capacities,

Respondents.

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NO. 20-cv-10738-GAO

DECLARATION OF DR. MEGAN SHAW, CLINICAL DIRECTOR

I, Megan Shaw, M.D., do hereby declare, certify and state as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons (BOP). I currently work as the Clinical Director at the Federal Medical Center in Devens, Massachusetts (FMC Devens). I have held this position since January 6th, 2020. I have been employed by BOP since 2016.

2. In my position as the Clinical Director at FMC Devens, I am responsible for coordinating comprehensive medical, dental, and mental health services of the highest quality while maintaining a clean, safe, and secure environment for nearly 1200 inmates at both our Federal Medical Center institution as well as our Federal Prison Camp at FMC Devens (FPC Devens). The Health Services Department is staffed by a comprehensive team of BOP and Public Health Service health care workers, accompanied by professional contract staff committed to

providing the highest standards of professionalism and dedication to the inmate population. FMC Devens offers comprehensive ambulatory care addressing primary care, chronic care, emergent care and acute care. Additionally, minor office-based procedures, diagnostic testing, specialty consultations and office based dental procedures are provided in house.

3. The FMC Devens Clinical Staff consists of 6 Physicians, 6 Mid-level Providers, 40 Registered Nurses, 2 Infection Control/Improving Performance Nurses and 3 Medication Technicians, as well as 8 Pharmacists, 2 Dentists, and 1 Dental Hygienist. Currently medical coverage is offered 24 hours daily during the COVID-19 Pandemic. The Health Services Department is accredited by The Joint Commission (JC), the American Correctional Association (ACA) and the Accreditation Association for Ambulatory Health Care (AAAHC).

4. With respect to COVID-19, specifically, I am involved on a daily basis in the identification, planning, and implementation of all Bureau directives for preventing the spread of COVID-19 at FMC Devens, including FPC Devens. Through this role, I have knowledge of both the Bureau's national directives relating to COVID-19 and the additional steps that FMC Devens, specifically, has taken to combat COVID-19 within the facility. Accordingly, through the course of my official duties, I have personal knowledge regarding the numerous measures, discussed below, that have been implemented both Bureau-wide and at FMC Devens in order to prevent and manage the spread of COVID-19.

I. NATIONAL STEPS TAKEN BY BUREAU TO ADDRESS COVID-19

5. Before discussing the steps being taken at FMC Devens, specifically, I will first discuss the phases of the BOP's national response to the COVID-19 pandemic, which apply generally across all BOP institutions. As set forth below, the Bureau has taken—and is continuing to take—significant measures in response to the COVID-19 pandemic in order to

protect the safety and security of all staff and inmates, as well as members of the public.

6. In January 2020, the Bureau became aware of the first identified COVID-19 cases in the United States and quickly took steps to prevent its introduction and spread in Bureau institutions. The Bureau's response, detailed below, has occurred over six distinct "phases" to date. The Bureau will continue to modify and adjust its response as circumstances change, and at the guidance and direction of worldwide health authorities.

A. Action Plan for COVID-19 – Phase One

7. In January 2020, the Bureau began Phase One of its Action Plan for COVID-19. Phase One activities included, among other things, seeking guidance from the BOP's Health Services Division regarding the COVID-19 disease and its symptoms, where in the United States infections were occurring, and the best practices to mitigate its transmission. See https://www.bop.gov/resources/news/20200313_covid-19.jsp. In addition, an agency task force was established to begin strategic planning for COVID-19 Bureau-wide. This strategic planning included building on the Bureau's existing procedures for pandemics, such as implementing its pre-approved Pandemic Influenza Plan. From January 2020 through the present, the Bureau has been coordinating its COVID-19 efforts with subject-matter experts both internal and external to the agency, including implementing guidance and directives from the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), the Office of Personnel Management (OPM), the Department of Justice (DOJ), and the Office of the Vice President. See https://www.bop.gov/resources/news/20200313_covid-19.jsp.

B. Action Plan for COVID-19 – Phase Two

8. On March 13, 2020, the Bureau implemented Phase Two of its Action Plan. Phase Two put into place a number of restrictions across all Bureau facilities over a 30-day period, to be re-

evaluated upon the conclusion of that time period. Specifically, the Bureau suspended the following activities for an initial period of 30 days, with certain limited exceptions: social visits; legal visits; inmate facility transfers; official staff travel; staff training; contractor access; Volunteer visits; and tours. See https://www.bop.gov/coronavirus/covid19_status.jsp.

9. During Phase Two, inmates were subjected to new screening requirements. Specifically, all newly arriving Bureau inmates were screened for COVID-19 symptoms and “exposure risk factors,” including, for example, if the inmate had traveled from or through any high-risk COVID-19 locations (as determined by the CDC), or had had close contact with anyone testing positive for COVID-19. Asymptomatic inmates with exposure risk factors were quarantined, and symptomatic inmates with exposure risk factors were isolated and evaluated for possible COVID-19 testing by local Bureau medical providers.¹

10. Staff were also subjected to enhanced health screening in areas of “sustained community transmission,” as determined by the CDC, and at medical referral centers. On March 14th, 2020, FMC Devens implemented this enhanced screening for staff and contractors at that time. The enhanced screening measures required all staff to self-report any symptoms consistent with COVID-19, as well as any known or suspected COVID-19 exposure, and further required all staff to have their temperature taken upon entry into any Bureau facility.

11. Finally, in addition to the measures listed above, the Bureau implemented national “modified operations” in order to maximize social distancing within Bureau facilities. These modifications included staggered meal and recreation times in order to limit congregate gatherings. Additionally, the Bureau established a set of quarantine and isolation procedures for known or

¹ Throughout this declaration, “isolation” refers to a symptomatic inmate being confined to the Isolation Unit. “Quarantine,” on the other hand, refers to asymptomatic inmates who are confined to Quarantined areas at FMC Devens: PA, P3 or Special Housing Range 2.

potential cases of COVID-19.

12. FMC Devens implemented this “modified operations” directive in a number of ways. For example, and among other things, FMC Devens: (1) instituted “grab and go” meals for inmates, meaning that inmates were permitted to pick up pre-packaged meals at designated times, but had to return to their housing units in order to eat; scheduled staggered mealtimes, so that only a single housing unit (approximately 150 inmates) are moving within the facility at any particular time; and (2) Assigned separate commissary times by housing unit to separate the movement of the units in a similar fashion; and (3) Staggered recreation for both inside and outside recreation; and (4) Assigned orderlies per housing unit; and (5) Assigned door holders for all meal times; and (6) Health Services pill line (controlled medication dispensing), insulin and sick calls are accomplished directly on each unit by floor so they have continued separation there as well. All programming (education, recreation, law library, etc.), were modified so that inmates cycle through these areas throughout the day by a series of “moves” which ensure that they do not mix with inmates from other housing units in these areas. This maintains a “shelter in place” division of the smallest possible number by housing unit to avoid exposure and spread of COVID-19.

C. Action Plan for COVID-19 – Phase Three

13. On March 18, 2020, the Bureau implemented Phase Three of the COVID-19 Action Plan for Bureau locations that perform administrative services (i.e., non-prison locations), which followed DOJ, Office of Management and Budget, and OPM guidance for maximizing telework. In this phase, individuals who had the ability to telework and whose job functions did not require them to be physically present were directed to begin teleworking.

14. Additionally, as part of this phase, and in accordance with the Pandemic Influenza contingency plan, all cleaning, sanitation, and medical supplies were inventoried. See

https://www.bop.gov/resources/news/pdfs/20200324_bop_press_release_covid19_update.pdf.

D. Action Plan for COVID-19 – Phase Four

15. On March 26, 2020, the Bureau implemented Phase Four of its Action Plan. In Phase Four, the Bureau revised its preventative measures for all institutions. Specifically, the agency updated its quarantine and isolation procedures to require all newly admitted inmates to the Bureau, whether in areas of sustained community transmission or not, to be assessed using a screening tool and temperature check (further explained below). This screening tool and temperature check applied to all new intakes, detainees, commitments, prisoners returned on writ from judicial proceedings, and parole violators, regardless of their method of arrival. Thus, all new arrivals to any Bureau institution—even those who were asymptomatic—were placed in quarantine for a minimum of 14 days or until cleared by medical staff. Symptomatic inmates were placed in isolation until they tested negative for COVID-19 or were cleared by medical staff as meeting CDC criteria for release from isolation.

E. Action Plan for COVID-19 – Phase Five

16. On March 31, 2020, the Director of the Bureau ordered the implementation of Phase 5 of its COVID-19 Action Plan, which took effect on April 1, 2020. Specifically, the Director ordered the following steps to be taken:

- A. For a 14-day period, inmates in every institution will be secured in their assigned cells/quarters to decrease the spread of the virus.
- B. During this time, to the extent practicable, inmates should still have access to programs and services offered under normal operating procedures, such as mental health treatment and education.
- C. In addition, the Bureau is coordinating with the United States Marshals Service (USMS)

to significantly decrease incoming movement during this time.

- D. After 14 days, this decision will be re-evaluated and a decision made as to whether or not to return to modified operations.
- E. Limited group gathering will be afforded to the extent practical to facilitate commissary, laundry, showers, telephone, and Trust Fund Limited Computer System (TRULINCS²) access.
- F. Provided inmates access to programs and services offered under normal operating procedures, such as mental health treatment and education.
- G. In addition, the Bureau coordinated with the United States Marshals Service (USMS) to significantly decrease incoming movement during this time.

See https://www.bop.gov/resources/news/20200331_covid19_action_plan_5.jsp.

F. Action Plan for COVID-19 – Phase Six

17. On April 13, 2020, the Director of the Bureau ordered the implementation of Phase 6 of its COVID-19 Action Plan. Specifically, the Director ordered an extension of the nationwide action in Phase 5, which applies to medical screening, limited inmate gathering, daily rounds, limited external movement, and fit testing, until May 18, 2020. See https://www.bop.gov/resources/news/pdfs/20200414_press_release_action_plan_6.pdf

18. Phase Six has been implemented at FMC Devens.

II. STEPS TAKEN AT FMC DEVENS TO ADDRESS COVID-19

19. In addition to the steps taken at the national level, FMC Devens itself has also taken a number of additional measures in response to the COVID-19 pandemic, including providing

² TRULINCS is the internal Bureau computer and electronic message platform that inmates use to communicate with staff in the institutions and individuals in the community. Through this platform, inmates receive updates, notices, and can read inmate bulletins posted on the system by Bureau staff.

inmate and staff education; conducting inmate and staff screening; putting into place testing, quarantine, and isolation procedures in accordance with Bureau policy and CDC guidelines; ordering enhanced cleaning and medical supplies; and taking a number of other preventative measures.

20. From the outset of the COVID-19 pandemic, FMC Devens officials have provided regular updates to inmates and staff regarding the virus and the Bureau's response, and have educated inmates and staff regarding measures that they themselves should take to stay healthy.

21. HSD suspended all staff travel to conferences and training to avoid high risk areas of COVID transmission.

Federal Medical Center ("FMC")

22. Two separate ranges were established for Isolation (Symptoms) and Quarantine (Asymptomatic) inmates. These areas were physically separate from other housing units and identified with signs prior to entering the unit. Staff were educated on use of correct PPE for each range and PPE carts were set up for easy donning and doffing of PPE.

23. 2 exam rooms in the HSD were set aside for evaluation and testing of any symptomatic inmates. Inmates with any cough, fever or SOB were given a mask and escorted to these special exam rooms. The rooms were equipped with gowns, face shields, N95 masks and Virucide capable of killing Coronavirus. These rooms also had closed and locked doors. Inmates were swabbed either by NSP or Pharyngeal swab and tested for COVID-19. They were then placed on a separate range for Isolation inmates. Any inmate presenting with cough, sob or fever was immediately given a mask and isolated from all other inmates and staff. Staff also enforce social distancing guidelines.

24. Fit testing was increased to allow for more staff to have N95 masks distributed to

them for protection if and when they were assigned to the Isolation Range.

25. Enhanced screening of staff was started and all staff entering the institution were screened for any fever and symptoms of COVID-19. Staff with any symptoms or fever were sent home and a medical officer was assigned to contact them and determine when it would be safe and appropriate for them to return to the institution.

26. Any and all new inmates who were coming in to FMC Devens were also screened for any fever or symptoms. They were then placed in an automatic 14 day quarantine prior to release to their housing unit and if they had any symptoms, they were tested, treated and placed in the Isolation unit. Inmates that were admitted to the outside hospital and or emergency room were also placed on a 14 day quarantine upon return to the institution. Devens also began screening every inmate, every day for fever and/or symptoms of COVID 19. Any inmate with signs and/or symptoms of COVID-19 is removed from the housing units and isolated away from all other inmates. In addition, these inmates are immediately tested for COVID-19.

27. Dialysis inmates were screened prior to entering dialysis and then given grab and go meals they could take back to their unit so they were not exposed to other inmates on the compound during scheduled moves.

28. All scheduled medical trips were audited for urgency and any trips that could be rescheduled without adversely affecting the health of the inmate were cancelled and rescheduled. Also, inmates who did have to go to any scheduled medical appointments, not in the ER or Hospital, were monitored for fever and symptoms for 14 days by nursing on their return.

29. Escort officers were FIT tested and given PPE to wear during scheduled medical trips out of the institution.

30. Contractors were notified that they would be screened prior to entry and any clinics

that could be cancelled and rescheduled were changed to avoid further exposure to community physicians.

31. All inmate activities were separated by housing unit and floor in order to 'shelter in place' with the fewest number of fellow inmates. Every housing unit at FMC Devens has been sheltering in place and any inmate needing to be reassigned to another housing unit has been quarantined off of that unit for 14 days prior to reassignment. This means that each floor of each unit has been given designated times for meals, recreation, laundry, commissary, education and the law library, book cart distribution and job assignments. They are sheltering in place with their respective floor and these numbers are being reduced by additional physical barriers, currently under construction, in order to decrease the numbers of inmates in each 'shelter in place' designated location. In addition, sick call visits, pill lines, insulin administration and all screening of inmates has been moved to the inmates' specific unit so they can shelter in place while still receiving their medications and daily visits from medical staff. Soap and sanitizer was also made available to all. In addition to the institution-supplied soap available to the inmate population, they can purchase Dove anti-bacterial and Irish Spring bar soap from the commissary. Both inmates and staff have widespread access to alcohol-free sanitizers. Finally, in accordance with March 15th guidance from the FDA allowing BOP to make its own sanitizer, our pharmacy has manufactured 75% isopropyl alcohol antiseptic topical solution hand sanitizer, which is issued to staff only.

32. HSD modified all medication administration to be given to the inmates units where they were sheltering in place on their units. Insulin lines were also modified to be given on the unit. Call-outs to Medical were modified to only include inmates from the same floor and unit at the same time.

33. Screening of all Food Service Workers started on a daily basis we also started

having sanitation crews working AM/PM with chemicals that kill COVID-19.

34. Dialysis inmates were screened prior to entering dialysis on a daily basis. Any inmate on isolation or quarantine was dialyzed in the negative pressure isolation room in dialysis.

35. All inmates who entered the hospital building were screened prior to entrance on a daily basis.

36. Our P-Unit building (originally designed as an Army hospital) was placed in a modified lockdown with no movement in between the floors, and all medication administration and meals were distributed on the floors separately.

37. At the onset of inmates sheltering in place on the units, the inmates on dialysis and those who were currently taking immunosuppressive medication were moved to units that had cell doors so they could shelter in place with more physical barriers and a smaller number of inmates.

38. Transplant teams were notified of modified lock down procedures by our Devens Transplant Coordinator. Our telemedicine program for inmate appointments was increased for all of the transplant inmates who had required visits that could be accomplished this way. Telemedicine expansion was also increased with our local contractors for inmates who were not transplant inmates but who had required visits that could be done by video or conference call.

39. All PPE was inventoried and PPE carts were established in each of the units for staff and officers to use during visits to the units.

40. Medical Exam rooms were established on each unit to enable the providers to see inmates at their shelter in place location. All Chronic Care and 14 day visits were done on the units or in the Quarantine area.

41. Mid-levels and or Medical Officers were assigned to come in each day of the weekend to evaluate any inmate in our Isolation area and to test and/or isolate any inmate with

symptoms.

42. Lab Techs were sent to units to do lab draws and radiology services were coordinated so that only inmates on the same floor and unit were in the waiting room at the same time.

43. New Dental Procedures were initiated by the acting Chief Dentist. Dental visits were also moved to the units and procedures scheduled by individual inmate so that there was no exposure to other units/floors in the dental waiting room.

44. Virucide was given to all HSD employees to clean their areas several times a day and between any inmate visits; paying special attention to the visits from different units and or floors.

45. Door holders were established so that not all inmates were touching door handles moving to and from their units.

46. Inmates were given access to Virucide to clean their cells and common areas several times a day.

47. Staff keys and radios were disinfected with Virucide in control before redistribution each day.

48. Since April 8, 2020, all inmates and staff were required to wear masks at all times in the institution to help decrease any exposure to respiratory droplets or secretions. Inmates are subject to discipline if they fail to wear a mask.

49. Inmates were educated by health services staff on social distancing, risk factors for COVID-19, modification of schedules and changes to sick call procedures so that all inmates continued to have access to medical staff on a daily basis.

50. All inmate companions were moved to the units where they were assigned to work

so that they would be sheltering in place with their inmates.

51. All orderlies were assigned to work areas by unit and floor so they were working with the same inmates that they were sheltering in place with.

52. Pharmacy began making and administering hand sanitizer to all staff to encourage increased hand hygiene practices.

53. Physical barriers are under construction in the housing units in order to further decrease the number of inmates who are sheltering in place together. Each floor or each unit will be further subdivided and the separate groups will be quarantined from each other, just as inmates on separate floors and in different housing units.

54. Staff dining hall was also shut down during the modified movement enforcement.

55. Inmate meals were changed to grab and go meals with Virucide cleaning in between the different unit/floor meal times

56. Crisis Support Team staff were deployed to the institution to discuss concerns and anxieties with staff and inmates

57. HSD staff developed a tool to identify the high risk inmates per the CDC website definition (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/underlying-conditions.html>) and began screening these inmates for referral to Expanded Home Confinement in conjunction with Unit Team. This analysis includes education and collaboration between the inmate and his medical provider on whether his risks for COVID-19 are greater at home or at the institution. In addition, HSD is diligently completing the medical summaries necessary to process the RIS/Compassionate Release requests that have been requested and are complying with all deadlines for this important process.

58. Pharmacy staff located and secured Hydroxychloroquine per the Emergency Use

Authorization for oral formulations of this medication in hospitalized inmates.

59. The Memory Disorder Unit (MDU) at FMC Devens is a uniquely situated 'locked' unit which has been sheltering in place since March. A locked unit is one where very few staff are allowed access and where MDU patients are not exposed to other FMC Devens inmates. This means they have very limited contact with anyone outside their unit and if an inmate were to develop symptoms, they could be easily isolated from other patients via the doors to each individual cell. In addition, all inmate companions within the MDU have been sheltering in place with the inmate to whom they are assigned to decrease the exposure of both inmates to any other inmates or staff. These inmate companions have not returned to their initial housing units and have been reassigned to live on the units where they are designated as companions.

Federal Prison Camp ("FPC")

60. At the adjacent Federal Prison Camp (FPC Devens), inmates are screened daily for symptoms of COVID and fever in the same fashion as the inmates at FMC Devens. If an inmate develops symptoms, he is brought inside FMC Devens for isolation. An Isolation Exam Room was established at the Camp in order to immediately isolate any inmate away from the rest of the Camp inmates if he were to develop symptoms, as well as providing a place behind a closed door. Work assignments were changed so that none of the inmates are going into the community to work on furlough and all jobs have been assigned to the Camp itself.

61. The Camp at FMC Devens houses Care Level 1 and 2 inmates only. These Camp inmates have a much smaller incidence of the CDC risk factors for increased mortality with COVID than our elderly and more medically complicated Care Level 3 and 4 inmates at the main institution. They are still being evaluated for the expanded Home Confinement program, as set forth by Central Office in the same program offered to our FMC Devens main institution inmates.

62. The Camp as a whole is sheltering in place and Health Services is providing medical care and pill line at the Camp itself also. In addition, any Camp inmates needing to come in to the FMC Health Services Division or Dental are being assigned a staggered scheduling time so that they are not exposed to any other inmates.

63. FPC staff are being screened prior to work at the Camp with the same enhanced screening procedures as the FMC. Additionally, at the Camp staff and inmates must wear facemasks at all times.

64. The Warden continues to hold a "Town Hall" with inmates and provides weekly updates each Thursday to the inmate population through the BOP's electronic messaging system.

65. As of April 20, 2020, no inmates have tested positive for COVID-19. Additionally as of this date, there are no staff members at FMC or FPC Devens who have tested positive for COVID-19 either.

III. CONCLUSION

66. In sum, the Bureau and FMC Devens take the COVID-19 pandemic extremely seriously and have implemented numerous measures to proactively combat the spread of this disease to staff members and the inmate population. The various phases of the Bureau's Action Plan have been designed and implemented in a systemic manner both nationally and at FMC Devens in order to mitigate the spread of COVID-19.

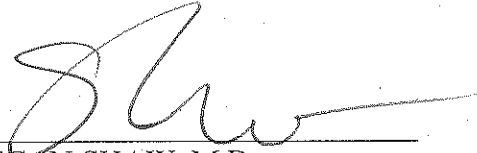
67. In addition to the steps taken at the national level, FMC Devens itself has taken a number of measures to prevent the introduction and spread of COVID-19 in the complex.

68. The Bureau and FMC Devens remain flexible in their ability to receive guidance from the CDC and other health organizations and to modify their actions to best respond to this

pandemic, according to the quickly shifting needs on the ground.

I declare that the foregoing is true and correct to the best of my knowledge and belief,
and is given under penalty of perjury pursuant to 28 U.S.C. § 1746 this 22nd April, 2020.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'M. Shaw', written over a horizontal line.

MEGAN SHAW, M.D.
Clinical Director
FMC Devens